

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JOHN COLE,

Plaintiff,

Civil No. 05-1700-CO

v.

FINDINGS AND  
RECOMMENDATION

JEAN HILL,

Defendant.

COONEY, Magistrate Judge.

By Order (#7) entered January 6, 2006, plaintiff was advised of the deficiencies of his complaint and allowed 30 days to file an amended complaint. Plaintiff was advised that failure to file an amended complaint within 30 days would result in the dismissal of this proceeding for failure to prosecute. Plaintiff has not filed an amended complaint or otherwise responded to the court's order.

For the reasons set forth in the court's previous order,

plaintiff has not state a constitutionally cognizable claim. Moreover, he has failed to prosecute this case. This action should be dismissed with prejudice..

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have ten (10) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have ten (10) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this 21 day of February, 2006.

\_\_\_\_\_  
s/  
John P. Cooney  
United States Magistrate Judge